

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2011-154

October 3, 2011

MAINE PUBLIC UTILITIES COMMISSION  
PISGAH MOUNTAIN, LLC  
Request for Certification of a Community-  
Based Renewable Energy Project

ORDER

WELCH, Chairman; VAFIADES and LITTELL, Commissioners

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**I. SUMMARY**

In this Order, the Commission certifies the 9 MW wind farm under development by Pisgah Mountain, LLC, as a Community-Based Renewable Energy Project pursuant to the provisions of Chapter 325, § (4)(B) of the Commission rules.

**II. BACKGROUND**

**A. Community-Based Renewable Energy Pilot Program**

During the 2009 session, the Legislature enacted An Act To Establish the Community-based Renewable Energy Pilot Program (Act), P.L. 2009, ch. 329. Part A of the Act establishes a community-based renewable energy pilot program, to be administered by the Commission, to encourage the sustainable development of community-based renewable energy. 35-A M.R.S.A. § 3602. In summary, the Act provides incentives, on a pilot program basis, for the development of community-based renewable projects. The projects must generate electricity from an eligible renewable resource, which includes fuel cells; tidal power; solar, wind and geothermal installations; hydroelectric generators; generators fueled by landfill gas; and biomass generators whose fuel includes anaerobic digestion of agricultural products, byproducts or wastes. These projects must be "locally owned electricity generating facilities," which means that 51% or more of the facility must be owned by "qualifying local owners." The facilities must not exceed 10 MW.

The implementing rules (Chapter 325, § 4(B)) establish a certification process that allows an owner or developer of a generating project to seek Commission certification through the submission of a petition for certification as a community-based renewable energy project. The rules contain the information that must be submitted in a petition for certification, including documentation as to whether the owners are qualifying local owners, documentation of a resolution of support passed by the local municipal legislative body and documentation of control of the site on which the project is located. Additionally, the Commission may certify a project only upon a finding that the project is reasonably likely to be in-service within three years of certification.

In its petition for certification, the project must indicate which incentive mechanism it is electing: 1) a long-term contract for the output of the facility with a transmission and distribution (T&D) utility; or 2) a renewable energy credit (REC) multiplier (in which the value of the REC is 150% of the amount of the produced electricity). Projects electing the REC multiplier are responsible for negotiating their own transactions for energy, capacity or RECs. Certified projects of less than 1 MW that elect a long-term contract can complete a standard form contract with the T&D utility at a price per kWh that has been established by the Commission. For certified projects with generating capacity of 1 MW and larger, the Commission shall periodically conduct a competitive solicitation to select projects that will be awarded a long-term contract with the T&D utility.

B. Petition for Certification

On April 25, 2011, Pisgah Mountain, LLC ("Pisgah") filed a petition to certify a 9 MW capacity, five turbine wind energy facility located on Pisgah Mountain, Clifton, Maine (the "Project") as a Community-Based Renewable Energy Project. The Project consists of five Vestas V90-1.8 MW turbines located on approximately 400 acres in Clifton that will interconnect to the Bangor Hydro distribution system. Pisgah Mountain, LLC is a Maine limited liability company that is ultimately owned by seven individuals who are all Maine residents: Paul and Sandy Fuller of Bangor, Gail and Wally Kimball of Veazie, Mike Smith of Bangor, and Woodchuck Farms LLC, a Maine entity that is owned by John and Eileen Williams of Clifton. Pisgah has provided copies of the deeds for the parcels of land on which the Project will be located. The project parcels are owned by Paul and Sandy Fuller of Bangor and John Williams of Clifton, all members of Pisgah Mountain, LLC.

On August 18, 2011, ISO New England Inc. ("ISO-NE") confirmed that Pisgah Mountain LLC will receive Interconnection Service for the Small Generating Facility proposed in an Interconnection Request dated October 20, 2010 and designated in the ISO-NE interconnection queue as the Queue Position No. 349, subject to Pisgah's completion of the requirements set forth in the Small Generator Interconnection Procedures.

The petition states that the Project intends to select the long-term contract as the incentive mechanism. Because the project has a nameplate capacity of greater than 1 MW, any long-term contract between Pisgah and Bangor Hydro Electric would be the result of an award in connection with a competitive solicitation conducted by the Commission.

Pisgah provided follow-up information by letter on June 15, 2011 and by email on June 23, 2011. The Clifton planning board has provided Provisional Approval of the Project's building permit and on June 14, 2011, the residents in the town of Clifton voted in support of the Project. Additionally, Pisgah provided additional information in its June 23<sup>rd</sup> email on the critical requirements and conditions necessary for the Project to

obtain financing. As of June 23<sup>rd</sup>, the Department of Environmental Protection (DEP) had approved the Project and there were no appeals.


### III. DECISION

Based on the information provided by Pisgah Mountain, LLC, we conclude that the Project satisfies the requirements of a community-based renewable energy project and that Pisgah Mountain, LLC would be eligible to submit a proposal to enter into a long-term contract for the output of the facility in response to a competitive solicitation to be conducted by the Commission. The Project is owned by Pisgah Mountain, LLC, a Maine limited liability company, which in turn is ultimately owned by seven individuals who are residents of Maine, all qualifying local owners. Pisgah has demonstrated control over the proposed Project site through copies of deeds for the project parcels and through receiving provisional approval for a building permit by the town of Clifton. The Project is a wind power installation, which is specifically defined as an eligible renewable resource. The nameplate capacity is less than 10MW and it is scheduled to begin commercial operations within three years of certification, during the fourth quarter of 2011 or the first half of 2012. On June 14, 2011, the Town of Clifton convened a town meeting at which a resolution of support for the Project was approved.

Accordingly, Pisgah Mountain, LLC is hereby certified as a Community-Based Renewable Energy Project pursuant to Chapter 325, § 4(B) of the Commission rules. Pisgah Mountain, LLC shall provide timely notice to the Commission of the following: any significant change in the construction or commercial operation schedule; if the Project does not begin commercial operations within three years of the date of this Certification; any change in the election or utilization of the long-term contract incentive mechanism from that described in the petition filed in this proceeding; and, any material change in the ownership structure of the Project that might violate the qualifying local owner requirement and could result in the loss of Commission certification as a Community-Based Renewable Energy Project.

Dated at Hallowell, Maine, this 3<sup>rd</sup> day of October, 2011.

BY ORDER OF THE COMMISSION

  
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Karen Geraghty  
Administrative Director

COMMISSIONERS VOTING FOR:

Welch  
Vafiades  
Littell

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.